**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**SPECIAL CIVIL APPLICATION No. 6806 of 1999**

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE JAYANT PATEL**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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**VAGHELA CHANDUBHAI MOHANBHAI - Petitioner(s)**
**Versus**
**ADDL. MAMLATDAR & A.L.T. & 3 - Respondent(s)**

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**Appearance :**
MR MC BHATT for Petitioner(s) : 1,
MR MAULIK NANAVATI, AGP for Respondent(s) : 1 - 2.
None for Respondent(s) : 3,
RULE SERVED for Respondent(s) : 3.2.1, 3.2.2, 3.2.3, 3.2.4, 3.2.5,3.2.6 - 4.

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**CORAM : HONOURABLE MR.JUSTICE JAYANT PATEL**

**Date : 21/08/2007**

**ORAL JUDGMENT**

1. Pursuant to the order passed by this Court on

30.04.2007, as the Misc. Civil Application was also to be heard with the main Special Civil Application, simultaneously, the matter is assigned to this Court. Today, this Court has passed the order in Misc. Civil Application No.1131 of 2007, whereby the main Special Civil Application is restored and is to proceed simultaneously. Hence, the main Special Civil Application is taken up for hearing.

2. The short facts of the case appears to be that the petitioner purchased the land at village Dabhoi bearing Survey No.1740 admeasuring 0-Hectares 24-Are and 97-Sq. Mtrs. The proceedings under Section 84C of the Act were initiated. The Deputy Collector, Dabhoi, ultimately found that the petitioner was holding the land at village Kamalpura and the distance between Kamalpura & Dabhoi is 15 Km and therefore, there is a breach of provisions of the Act and as the purchaser was not holding the agricultural land within the radius of 8 Km., the order of the Mamlatdar & ALT was confirmed. The matter was carried before the Tribunal and the Tribunal rejected the revision vide order dated 31.12.1998. Further, it appears that the review application was also filed by the petitioner which also came to be dismissed on 14.06.1999 and it is under these circumstances, the present petition before this Court.

3. Heard Mr. Bhatt, learned counsel for the petitioner and Mr.Nanavati, appearing for the State Authorities.

4. Upon hearing the learned advocate appearing for both the sides, it appears that the proceedings came to be initiated in the year 1988 and continued upto the level of the Tribunal in the year 1999 and thereafter, it remained pending before this Court after 1999. In the meantime, there is an amendment in the the year 1995, whereby the condition for requirement for holding the another agricultural land within the radius of 8 Kms. has been deleted from the statute book. Not only that, but the retrospective effect has been given vide Ordinance No.5/00, which subsequently has been converted as Gujarat Act No.3/01. Thereafter, a circular is also issued by the State Government dated 20.11.2000, whereby the effect is to be given in all pending proceedings also. The consequence of the amendment in the Act with the retrospective effect read with the circular is that, if the proceedings are pending before the appropriate forum in respect of forfeiture of the land or declaration of the sale as invalid and if the land has not been forfeited and has not been vested to the Government on account of the pendency of the proceedings, such proceedings are to be dropped or shall stand abated. In the present petition, this Court on

06.12.1999, had issued notice and had granted interim relief and it has continued throughout. Therefore, as the proceedings are pending before this Court, the proceedings under Section 84C of the Act will be required to be dropped or in any case, shall stand abated.

5. The reference may be made to the decision of this Court in the case of Vishnubhai Ambalal Patel Vs. Shankerji Punjaji Thakore & Anr. reported in 2002(3) GLH 78 & in the case of Meruben D/o. Sorabji Pestanji Bhatporiya Vs. Additional Special Secretary, Revenue Department(disputes) & Ors. reported in 2002(1) GLR 640.

6. As the issue is settled and the matter is covered by the aforesaid two decisions of this Court, no further discussion may be required.

7. In the result, it is hereby declared that the proceedings under Section 84C of the Act shall stand abated and in view of the same, the impugned orders passed by the Mamlatdar dated 22.11.1993 in Tenancy Case No.763/88 and its confirmation thereof by the Deputy Collector and by the Revenue Tribunal shall not survive.

8. The petition is allowed to the aforesaid extent. Rule made absolute accordingly.

***(JAYANT PATEL, J.)***

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